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Request for a subvention to the Special Court for Sierra Leone

Thirty-first report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee has considered the report of the Secretary-General on the request for a subvention to the Special Court for Sierra Leone (A/58/733), which was prepared in response to an exchange of letters between the Secretary-General and the President of the Security Council (S/2004/182 and S/2004/183). In his letter, the Secretary-General drew the attention of the Security Council to the financial difficulties facing the Court with regard to its operation beyond 1 July 2004 and indicated that the Council might wish to invite him to bring the matter to the attention of the General Assembly. The Council noted the course of action proposed by the Secretary-General and expressed no objection to it.

2. When the Secretary-General prepared his reports on the question of the establishment of an independent Special Court for Sierra Leone, in accordance with Security Council resolution 1315 (2000), he expressed the view that the only realistic solution for financing the Court was from assessed contributions (see S/2000/915, para. 70 and S/2001/40, para. 11). However the Council, after an exchange of views with the Secretary-General, reiterated its support for creating the Court through voluntary contributions, on the understanding that the Secretary-General would not be expected to create any institution for which he did not have adequate funds in hand for at least 12 months and pledges to cover anticipated expenses for a second year of operation. Subsequently, an agreement was signed between the United Nations and the Government of Sierra Leone on the establishment of the Court (see S/2002/246 and Corr.2 and 3, appendix II).

3. The Secretary-General estimates that available voluntary contributions will carry the Court only to the end of its second year of operations (30 June 2004), and efforts to mobilize additional resources have not yielded sufficient results. According to the report, owing to the shortfall in funds in the second year, only $1.8 million in voluntary contributions would be available for the third year. Requirements for the third year are estimated at $30 million, on the assumption that

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no additional trial activity is undertaken. An additional amount of $10 million proposed for the period from 1 July to 31 December 2005 for the completion phase is related mainly to appeal activities. In this regard, the Advisory Committee notes that a "definitive exit and completion strategy has yet to be finalized" (A/58/733, para. 11).

4. Accordingly, the Secretary-General proposes that a subvention of up to $40 million be made available to the Court. Taking into account the currently available amount of $1.8 million, a subvention of $16.7 million is proposed for the period from 1 July to 31 December 2004 from the unearmarked balance of the provision for special political missions under section 3, Political affairs, of the programme budget for the biennium 2004-2005. The Secretary-General would continue to seek voluntary contributions and would revert to the General Assembly at the main part of its fifty-ninth session on the status of the Court's financial position and, as necessary, seek appropriation of the balance of the required overall resources.

5. **Bearing in mind that the Court was established on the basis of voluntary financing, it will be for the General Assembly to decide, as a matter of policy, whether or not a subvention to meet the expenses of the Court should be made from the assessed budget of the Organization. Also to be borne in mind, in the opinion of the Advisory Committee, is the impact of a contribution by the membership as a whole on efforts to seek further voluntary contributions (which the Committee believes should continue). Similarly, at some point account should be taken of the impact of a contribution from the assessed budget on the provisions of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, concerning in particular the composition and expenses of the Court, as well as the functions of the Management Committee of the Court.**

6. In the paragraphs below, the Advisory Committee offers a possible approach for dealing with the provision of financial assistance to the Court should the General Assembly decide that it wishes to grant such assistance.

7. The Advisory Committee received an advance version of the report of the Secretary-General (A/58/733), in English only, on 15 March 2004. It held hearings on the question on 16 March and approved its report on 17 March so that it could be issued by Friday, 19 March, to meet the Fifth Committee's scheduled review of the item on Monday, 22 March. This gives an indication of the time constraints facing the Advisory Committee. The information made available to the Committee was prepared by the Secretariat, with the caveat that the Court had prepared its own budget and, as a consequence, any detailed requests for additional information would probably have to be referred to the Court. **Under the circumstances, the Advisory Committee was not able to conduct a detailed examination of the estimates before it.**

8. The Advisory Committee understands that the amount of $16.7 million estimated for the period from 1 July to 31 December 2004 takes into account savings as compared with previous expenditure attributable to "set-up" costs, such as those related to construction, furniture and equipment; it also takes into account a reduced forecast of expenditure for consultants and experts. The Committee was informed that there might be increased requirements for expenditure on defence and witness costs. The Committee points out, on the other hand, that there will likely be

a reduced requirement for investigative costs, even taking into account the use of investigators for trial support.

9. **Under the circumstances, should the General Assembly decide to contribute towards the expenses of the Court, the Advisory Committee would recommend that, at this stage, commitment authority be granted in an amount not exceeding $16.7 million. The authority would be administered along the lines spelled out in paragraph 13 of the report of the Secretary-General. The Committee, at its earliest opportunity, would revert to this matter on the basis of a detailed and fully justified submission, which would include the participation of representatives of the Court. Taking into account the latest developments, including the possible receipt of additional voluntary contributions, the Committee would then provide a detailed recommendation to the Assembly as to the level of financial assistance that would be required and the source of financing, including through use of the existing appropriation for special political missions or otherwise. In this connection, the Committee points out that, as at 16 March 2004, the balance remaining in the provision for special political missions was approximately $21.1 million, and the Committee was informed that other potential charges were likely to come.**